Supreme Court, U.S.
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In The
Supreme Court of the United States
No. 03-824

CINDY L. NAETHING
Petitioner,

-v-

LEE COVINGTON, Director
AMERICAN GENERAL LIFE AND ACCIDENT
INSURANCE COMPANY, *et al.,*

Respondents,

On Petition For Writ Of Certiorari To The
United States Court Of Appeals
For The Sixth Circuit

PETITION FOR REHEARING
CINDY L. NAETHING

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PETITION FOR REHEARING

The Petitioner, CINDY L. NAETHING, moves this Court to reconsider its decision of March 8, 2004 denying Cindy Naething's petition for writ of certiorari. Petitions for rehearing of denials of petitions for certiorari are permitted when limited to "other substantial grounds not previously presented." Rule 44.2, Rules of the Supreme Court.

The question presented herein was not previously presented.

This question presents substantial ground for relief.

ADDITIONAL CONSTITUTIONAL PROVISIONS INVOLVED

This case involves, in addition to the authorities already cited in the petition for certiorari, the following provisions of the United States Constitution:

Article I, 10 which says:

No State shall... pass any Bill of Attainder, ex post facto Law or law impairing the Obligation of Contracts, or grant any Title of Nobility.

And the Fifth Amendment which says:

No person shall... be deprived of life, liberty, or property, without due process of law;...

Petitioner must bring to this court's attention now, that she never expected the response brief she received from the defendants American General Life & Accident Insurance Co. It appears at this point that all the attempts on my part in trying to communicate with the company have not been greatly appreciated.

There have been starting with a letter on October 8, 2001. up through December 20, 2003. approximately nineteen letters written

to the company, and they are well aware why. Last thing petitioner expected was to all of a sudden after two years of once again trying with them was to receive a letter from them in January 2004 certified also stating:

Dear Ms. Naething:

Your most recent letter to Rod Martin has been referred to me for response.

Your case is currently pending before the U.S. Supreme Court. It is, therefore, not appropriate for you to correspond directly with a party to this action. Any thoughts you feel the need to express concerning American General should be directed to Michael S. Gordon of Vorys, Sater, Seymour and Pease or to the court itself. Do not attempt further communications with Mr. Martin or any other management employee of American General. Any such correspondence will be forwarded directly to me and will not be seen by Mr. Martin or your intended recipient.

In addition, you were provided a trespass notice by Mark Caldwell, Director of Corporate Security. As such, you have been put on notice that any attempt by you to visit the Houston, Nashville, or any other office of American General will result in your immediate arrest for trespass.

Sincerely,

Michael J. McKierman

Therefore, since it seems that American General is in no hurry to provide me with some relief in this matter. Maybe it is time I insist on it. If they want to continue and ignore their responsibility in this case. This court should resolve the conflicting standards by granting certiorari and reviewing this case in its entirety. And once again realize all this petitioner here was requesting was the documents that long ago would of relieved her of much more suffering.

[* 281] Sec. 8 of No. 1. Sts. 1874, provides that "no insurance company organized under the laws of this State shall do business in this State, until it has filed with the Secretary of this State a written stipulation agreeing that any legal process affecting the company, served on either of the insurance commissioners, shall have the same effect as if served personally on the company in this state. So long as any liabilities of the stipulating company to any resident of this State continue, such stipulation cannot be revoked or modified. Service of process according to the stipulation aforesaid shall be sufficient service on the company."

We assume that such stipulation as is required by this act was dully filed with the Secretary of this State, and that the writ was served upon one of the insurance commissioners according to the provisions of the said act. And it is real clear this company has many said offices doing business in this State.

Further, a state incurs the obligation, under the due process clause of the Federal Constitution's Fourteenth Amendment, to provide meaningful, backward-looking relief to rectify any unconstitutional deprivation when it places a taxpayer under duress. *Id.*, at 51-52. State law may provide relief beyond the demands of federal due process, *id.*, at 52, n. 36, but under no circumstances may it confine petitioner to a lesser remedy, see *id.*, at 44-51. In the case of *Henry Harper Et & Al v. Virginia Department of Taxation 509 U.S. 86.* Is the same issues as this one. Petitioner was deprived of this remedy due to her for many years.

*The system used to condemn these organizations is bad enough. The evil is only compounded when a government employee is charged with being disloyal. Association with or membership in an organization found to be "subversive" weighs heavily against the accused. He is not allowed to prove that the charge against the organization is false. That case is closed; that line of defense is taken away.The technique of quilt by association was used in the prosecutions at Nuremberg n4 does make it [*179] congenial [***858] to our constitutional scheme. Guilt under our system of government is personal. When we make vicarious we borrow from systems alien to ours and ape our enemies.*

Those short-cuts may at times seem to serve noble aims; but we depreciate ourselves by indulging in them. When we deny even the most degraded person the rudiments of a fair trial, we endanger the liberties of everyone. We set a pattern of conduct that is dangerously expansive and is adaptable to the needs of any majority bent on suppressing opposition or dissension.

In this case of mine before the United States Supreme Court in requesting this whole case be reviewed because of the severity of the deprivation of my Constitutional rights that has continued into the Sixth Circuit and Court of Appeals in the State of Ohio who afforded no ground for deciding that the action was not arising under the Constitution and laws of the United States.

"For it is well settled that the failure to state a proper cause of action calls for a judgment on the merits and not for dismissal for want of jurisdiction." *Bell v. Hood, 327 U.S. 678, 682 [**701]* See also *Binderup v. Pathe Exchange, 263 U.S. 291, 305-308.*

Also is the Court at liberty to shut its eyes to an obvious mistake, when the validity of the law depends upon the truth or what is declared... [It can] inquire whether the exigency still existed upon which the continued operation of the law depended.

Petitioner would like to add that these courts because of not further trying to find out what a person before them had truly endured. They had no idea of the disadvantage of the law a person has had in being prevented from further proving her allegations. First with all the agencies contacted in trying to obtain assistance. All of the monies paid in trying to get some action. The misrepresentation from the State Department of Insurance. The Richland County Common Please Court. They all had the power to prevent me from getting the proper help legally. Not just from the year 1991 through 1995. But it continued and continued. This is a case where a person could not tell it all with out writing a book. But there was enough stated in the federal courts for me to be provided with further procedures. Due process of law. Constitutional Rights under the Fourteenth Amendment.

In the case of *Alexander v. United States 201 U.S. 117. 26 S. Ct. 356. 50 L. Ed. 686.* This court ordered direct the appellants respectively to appear before special examiner in the case, at the time and place to be designated, and directs each of them to "answer each and every question put to them respectively by counsel for the complainant, the United States of America," and to produce before such commissioner certain books, papers, records, documents, reports and contracts, "for the purpose of their respective examination in said cause, and for use in evidence of the complaint of the United States of America in said examination." And it is ordered that the complainant's counsel shall have the right to inspect the said books, ect., and to introduce them or any of them in evidence; but, except as necessary for such purposes, the books, ect., to remain in the custody of the appellants.

Petitioner in all these years has never been able to obtain these documents, with the knowledge she has been defrauded out of this money. The whole reason she knows that these rulings from the lower courts starting from the one in 1995. Are as false as they could be. Both of these entities have with held this information from me. It has been proven in the communications in 2001 with the State Department of Insurance did indeed have the documents they have hidden from me. And I'am sure American General has kept good track of their records. So when does the judicial system put a halt to this once in for all, so that a person can regain a normal life and not suffer any longer?

According to 10 of the Administrative Procedure Act (APA), 5 U.S.C. 702, which provides:

"A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency [*733] action within the meaning of a relevant statute, is entitled to judicial relief thereof."

It is real clear in this case that a person has suffered much more than a direct injury. But in a since non repairable injury in twelve years of having to live knowing that this man passes away intends you to benefit in the event of his death. But illegal foul play takes place you are judged, demeaned, slandered, dogged, and lied to.

Conspired against in getting assistance. Financially drained on many occasions. Prevented from getting justice. Run to the ground like some sort of animal. Knowing eventually that people just thought it fine I had my life messed with in hopes for this to continue to drag out like it has. Having such a disadvantage of the law because of certain peoples plan in trying to benefit. To be continuously slapped in the face with no justice over and over again. To even receive a letter from the White House in 1994 stating to keep getting touch with your state and local government officials, which was a joke and which I did up through 2001. Must I continue to explain the grief I've suffered. The worst other than the financial so many times has been the mental cruelty that is not repairable. One last thing every one contacted stating go back to this person or that. Keep trying with all these people and agencies.

This is a case where not only needs to be reviewed on the constitutional merits of the legislation, but a person has standing to seek judicial review under the Administrative Procedure Act.

When a State exercises power wholly within the domain of the state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right. This principal has had many applications. It has long been recognized in cases which have prohibited a State from exploiting a power acknowledged to be absolute in an isolated context to justify the imposition of an "unconstitutional condition." What the Court has said in those cases is equally applicable here,*viz.*, that "Acts generally lawful when done to accomplish an unlawful end, *United States v. Reading Co., 226 U.S. 324, 357,* and a constitutional power cannot be used by way of condition to attain an [*348] unconstitutional result."*Western Union Telegraph Co. v. Foster, 247 U.S. 105, 114.* The petitioners are entitled to prove their allegations at trial. For these reasons, in the case at hand, *Gomillon Et Al v. Lightfoot, Mayor of Tuskegee, Et Al. 364 U.S. 339.* The principal conclusions of the District Court and the Court of Appeals are clearly erroneous and the decision below must be reversed.

"[A] plaintiff may challenge alleged illegal competition when as it pursues (1) a legal interest by reason of public character or contract,...[*153] (2) a legal interest by reason of statutory protection,... or (3) a public interest in which Congress has recognized the need for review of administrative action and plaintiff is significantly involved to have standing to represent the public..." *406 F. 2d, at 842-843. n1*

There would appear to be no objective basis upon which to disallow a suit by any other bona fide "special interest" organization, however small or short-lived. If any group with a bona fide special interest could initiate such litigation, it is difficult to perceive why any individual citizen with the same special interest would not be entitled to do so. And where the rights of persons or property are involved, and those rights can be presented under some form of judicial form of proceedings, that court of justice can interpose relief.

While the instant case of mine involves the constitutionality of the deprivation of my Constitutionally protected invested rights that have deprived me many years of the enjoyment of living a peacefull and normal life because of continuing to fight for my rights.

In the case of *Association of Data Processing Service Organizations, Inc. Et Al v. Camp Controller of the Currency, Et Al. 397 U.S. 150 90 S. Ct. 827. 25 L. Ed. 2d. 184 (1970).* The Supreme Court of United States held [*58] Whether anything in the Bank Service Corporation Act or the National Bank Act gives petitioners a "legal interest" that protects them against violations of those acts, and whether the actions of respondents did in fact violate either of those Acts, are questions which go to the merits and remain to be decided below.

We hold that petitioners have standing to sue and the case should be remanded for a hearing on the merits.

Earlier decisions under this statute interpreted the language as adopting the various formulations of "legal interest" and "legal wrong" then prevailing as constitutional of standing. N4 But in *Barlow v. Collins, 397 U.S. 159,* it was also decided that persons had standing to obtain judicial review of federal agency action under 10 of the APA where they had alleged that the challenged action had caused them "injury in fact," and where the alleged injury was to an interest "arguably within the zone of interests to be protected or regulated" by the statutes that agencies were claimed to have violated. N5

The test of the "injury in fact" – required to lay the basis for standing under the Administrative Procedure Act provision (5 USCS 702) that a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of relevant statute, is entitled to judicial review thereof—goes only to the question of standing to obtain judicial review; once this standing is established, the party may assert the interest of the general public in support of his claim for equitable relief.

In the case of *United States v. Causby, 328 U.S. 256 (1946).* Held that the governments actions where unconstitutional and the plaintiff succeeded in such a suit.

This case before the Supreme Court of the United States may seem to be of no importance, and this person here be for them right now might seem like just another burden. But I can say that there have not been many case before the Supreme Court in which the person pursuing their rights had been run to the ground so. Most people who are fighting a case in the courts at least are living normal. They have not lost their means of how to live and where.

This Honorable court should act to create the uniformity intended by Congress and necessary for the efficient and proper conduct of commerce. Because where the rights of persons property are involved, and when such rights can be presented under some judicial form of proceedings, that court of justice can interpose relief.

Petitioner might of not been able to come up with the perfect form of judicial proceedings she is entitled to herself, not being an attorney, not to mention getting so mentally drained and stressed over this continuing. But I'm sure there has been enough presented of the wrong doings been done her for any one with common since to see. And I would hate to think I would have to seek public support over this if there is finally no justice. Or even resort to having to write a book eventually, which would expose a lot of this corruption that has accrued. When it is so unnecessary a person was only requesting once again some simple documents she was entitled to. This top-secret information that has been hidden.

CONCLUSION

For the reasons set forth above, as well as those contained in petition for writ of certiorari, petitioner prays that this Court grant rehearing of the order of denial, vacate that order, grant the petition and review the judgment and opinion below.

Respectfully submitted,

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March 25, 2004

CERTIFICATE OF GOOD FAITH

Pursuant to Rule 44.2, I hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay, and is limited to the grounds specified in Rule 44.2.

Cindy L. Naething Pro se: